

§ 4290.1100

in the form of cash, warrants, or other payments, for services provided as members of the board of directors of a Portfolio Concern Financed by you. The fees must not exceed those paid to other outside board members. In the absence of such board members, fees must be reasonable when compared with amounts paid to outside directors of similar companies. At least 50 percent of any board member services fees paid to your Associate by a Portfolio Concern for board member services provided by the Associate must be allocated back to you for your benefit.

(e) *Approval required.* You must obtain the Secretary's prior written approval of any management contract that does not satisfy paragraphs (c) or (d) of this section.

(f) *Transaction fees.* (1) You or your Associate may charge reasonable transaction fees for work performed preparing an Enterprise for a public offering, private offering, or sale of all or part of the business, and for assisting with the transaction. Compensation may be in the form of cash, notes, stock, and/or options. All of the transaction services fees paid to your Associate by a Portfolio Concern for transaction services provided by the Associate must be allocated back to you for your benefit.

(2) Your Associate may charge market rate investment banking fees to a Portfolio Concern on that portion of a Financing that you do not provide.

(g) *Recordkeeping Requirements.* You must keep a record of hours spent and amounts charged to the Portfolio Concern, including expenses charged.

Subpart J—Financial Assistance for RBICs (Leverage)

GENERAL INFORMATION ABOUT OBTAINING LEVERAGE

§ 4290.1100 Type of Leverage and application procedures.

(a) *Type of Leverage available.* You may apply for Leverage from the Secretary in the form of a guarantee of your Debentures.

(b) *Applying for Leverage.* The Leverage application process has two parts. You must first apply for the Secretary's conditional commitment to re-

7 CFR Ch. XLII (1–1–08 Edition)

serve a specific amount of Leverage for your future use. You may then apply to draw down Leverage against the commitment. See §§ 4290.1200 through 4290.1240.

(c) *Where to send your application.* Send all Leverage draw-down applications to Funding Control Officer, Investment Division, U.S. Small Business Administration, 409 Third Street, SW., Suite 6300, Mail Code 7050, Washington, DC 20416.

§ 4290.1120 General eligibility requirements for Leverage.

To be eligible for Leverage, you must be in compliance with the Act, the regulations in this part, and your Participation Agreement.

§ 4290.1130 Leverage fees payable by RBIC.

(a) *Leverage fee.* You must pay the Secretary a non-refundable leverage fee for each issuance of a Debenture. The fee is 3 percent of the face amount of the Debenture issued, and will be deducted from the proceeds remitted to you.

(b) *Additional charge.* You must pay the Secretary an additional annual charge of 1 percent of the outstanding amount of your Debenture.

(c) *Other Leverage fees.* The Secretary may establish a fee structure for services performed by the Central Registration Agent (CRA). The Secretary will not collect any fee for its guarantee of TCs.

§ 4290.1140 RBIC's acceptance of remedies under § 4290.1810.

If you issue Leverage, you automatically agree to the terms and conditions in § 4290.1810 as it exists at the time of issuance. The effect of these terms and conditions is the same as if they were fully incorporated in the terms of your Leverage.

MAXIMUM AMOUNT OF LEVERAGE FOR WHICH A RBIC IS ELIGIBLE

§ 4290.1150 Maximum amount of Leverage for a RBIC.

The face amount of a RBIC's outstanding Debentures may not exceed the lesser of 200 percent of its Leverageable Capital or \$105,000,000.